

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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THOMAS BURKE, et al.,

Plaintiffs,

v.

ORDER  
04-CV-308A

MFC CONSTRUCTION CO.,  
M. FALGIANO CONSTRUCTION CO.,

Defendants.

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The above-referenced case was referred to Magistrate Judge Hugh B Scott, pursuant to 28 U.S.C. § 636(b)(1)(B). On January 29, 2007, Magistrate Judge Scott filed a Report and Recommendation, recommending that plaintiff's motion for default judgment against defendant M. Falgiano Construction Co should be granted and plaintiffs' summary judgment motion against defendant MFC Construction Co. be granted as to the interim payment liability.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, plaintiff's motion for default judgment against defendant M. Falgiano Construction Co. is granted and plaintiffs' summary judgment motion against defendant MFC Construction Co. is granted as to the interim payment liability.

The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

*s/ Richard J. Arcara*

HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: February 20, 2007